IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7415 of 1999

With

SPECIAL CIVIL APPLICATION NO. 7530 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

Special Civil Application No. 7415 of 1999:

GULABRAI MOHANLAL ASHRA
Versus
CHIEF CONTROLLING REVENUE AUTHORITY & Anr.

Special Civil Application No. 7530 of 1999:

SMT. MANSUKHLAL PATEL
Versus
CHIEF CONTROLLING REVENUE AUTHORITY & Anr.

Appearance:
MR SANDEEP N BHATT for Petitioners
NOTICE SERVED BY DS for Respondent No. 1
Mrs. Siddhi Talati, AGP for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT
Date of decision: 14/03/2001

ORAL JUDGEMENT

Heard the learned counsel for the petitioners.

2. Rule is made returnable today. Mrs. Siddhi Talati, learned AGP waives service of Rule on behalf of the respondents.

3. At the joint request of learned counsel for the respective parties, the matters are taken up for final hearing today.

4. The petitions challenge the order passed by the Chief Controlling Revenue Authority, Gujarat State, in the exercise of his appellate powers under Section 32-B of the Bombay Stamp Act. The subject matter of the appeal was the order passed by the Deputy Collector in proceedings under Section 32-A of the said Act.

5. The matter has been dealt with by the Chief Controlling Revenue Authority as if it were an appeal, arising from a reference application made to the said authority by Deputy Collector under Section 32-B of the said Act.

6. The impugned order passed by the Chief Controlling Revenue Authority is at Annexure "F" to the petition. Even a casual reading of the said order indicates that the said order is firstly not an order on the merits and secondly, is not an order passed on the materials raised before the said authority. The said appeal is rejected simply on the ground that it is time barred.

7. It is not in dispute that the reference application filed by the present petitioners contains the prayer for condonation of delay. The impugned order deals with the prayer for condonation in a most casual and off-hand manner by a casual observation that no reasons for condonation of delay have been setforth. The said appeal was therefore in fact in substance summarily dismissed on the ground of limitation.

8. There is no dispute that the said authority has the power to condone delay in filing such proceedings. The number of orders passed by the said authority have been placed before this Court to show that in a number of such matters delay has been condoned. In fact, on perusal of such orders, I find that condonation of delay is a matter of course, and ultimately the proceedings

under Section 32-B are then dealt with on merits and on the basis of evidentiary material on record.

9. On the facts and circumstances of the case, I find that the refusal on the part of the Chief Controlling Authority to deal with the matter on merits, but taking shelter under non-condonation of delay, is merely abdicating from his obligation and responsibility to decide the matter on merits and in accordance with law, as it should have been done.

10. It is accordingly so directed.

11. These petitions are accordingly allowed. Rule made absolutely with no order as to costs.

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rmr.